



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 193
August 2, 1995

INVESTIGATORY SEIZURE OF PERSON
ABSENT REASONABLE SUSPICION

Reference: Jonna Rogers-Dwight
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 1422
P.2d
July 28, 1995

FACTS:

Trooper Whitehead observed a truck exceeding the speed limit and gave chase. The speeding truck had just passed Rogers-Dwight's car when Trooper Whitehead activated his overhead lights to signal the truck to pull over. The truck pulled to the right and stopped. Rogers-Dwight also pulled over to the side of the road--not because she believed the trooper was trying to stop her, but because she knew she was legally required [13 AAC 02.140(a)] to yield her lane to the patrol vehicle. Rogers-Dwight's vehicle was between the patrol car and the truck.

Trooper Whitehead approached Rogers-Dwight's vehicle intending to tell her he had not been chasing her and she was free to go. Rogers-Dwight was unable to open her car window. When she opened the door to speak to the trooper, he could smell an odor of alcohol emanating from the vehicle. Trooper Whitehead noticed that Rogers-Dwight's speech was slurred, so he administered a field sobriety test. On the basis of his observations, Trooper Whitehead arrested Rogers-Dwight for driving while under the influence of alcohol.

Rogers-Dwight challenged the stop, arguing that Trooper Whitehead subjected her to an investigative stop/seizure even though he had no suspicions of her having done anything wrong. She argued the trooper should have gone past her and parked his vehicle between her and the truck. Rogers-Dwight contends that once the patrol car stopped behind her with lights flashing, a reasonable person in her position would have felt constrained to remain where she was until the trooper affirmatively allowed her to leave.

ISSUE:

Because the stop was not supported by articulable suspicion of wrongdoing, did the trooper's actions amount to an illegal seizure under the Fourth Amendment?

HELD: No.

REASONING:

1. Trooper Whitehead did have an articulable reason to make contact with Rogers-Dwight. (emphasis added)

2. Rogers-Dwight's vehicle was parked between a stopped speeder and a law-enforcement officer who was about to contact the speeder. In order to eliminate the chance that Rogers-Dwight might be harmed if the impending encounter with the driver of the truck took a bad turn, Trooper Whitehead was justified in approaching Rogers-Dwight and asking or directing her to drive on.

3. Even if Rogers-Dwight had been under no statutory duty to remain where she was, Trooper Whitehead's community caretaker responsibilities would still justify his action of approaching and speaking to Rogers-Dwight. (emphasis added)

NOTES:

The court compared/contrasted this case with Ozhuwan v. State (see Legal Bulletin No. 138). In Ozhuwan, the court concluded that police made an illegal seizure of a vehicle/person parked in a public area by activating their lights and blocking the vehicle's means of exit. The police in Ozhuwan could not support a reasonable belief that occupants of Ozhuwan's car needed the officer's assistance.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section I, "Investigatory Seizure of Persons and Things," of your Contents and Text. File Legal Bulletin No. 193 numerically under Section R of the manual.